

Section 1 (6)(a) of the bill would prohibit a governmental entity taking any discriminatory action against a religious organization on the basis that the organization is religious, operates or seeks to operate during a state of emergency, or engages in religious exercise protected by the First Amendment to the United States Constitution. “Discriminatory action” against a religious organization is defined by the bill, in summary, as governmental action to:

1. alter the tax treatment of the religious organization;
2. disallow a state tax deduction for charitable contributions to the organization;
3. impose a monetary fine, fee, penalty, etc. on the organization, or to
4. materially alter the terms or conditions of a state contract, entitlement, license or certification issued to the organization.

HB 43 would authorize a religious organization to sue a governmental entity for its violation and would abolish sovereign, governmental, and qualified immunity as a defense to a claim of violation. A successful litigant could recover both monetary and non-monetary compensatory damages, attorneys’ fees and costs of litigation.

The bill requires that it be broadly construed to protect the free exercise of religion. Its provisions would supersede any conflicting state or local law that infringes on the free exercise of religion.

The fiscal impact of HB 43 on local governments is indeterminable due to the uncertainty of the number of claims that might arise under it and the outcome of any litigation. Potentially, this legislation could result in more local governments having to expend resources to defend against such claims as well as to pay out money as compensation to a successful litigant. Successful litigation of any sort would likely have a moderate to significant fiscal impact on a local government.

Part III: Differences to Local Government Mandate Statement from Prior Versions

Part II applies to HB 43 as submitted. There is no prior version for comparison.

Data Source(s): Kentucky League of Cities; LRC staff

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